

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JENNIFER VANDERSTOK *et al.*,

Plaintiffs,

v.

MERRICK GARLAND, in his official capacity as Attorney General of the United States *et al.*,

Defendants.

Case No. 4:22-cv-00691-O

DEFENDANTS' MOTION TO EXCEED PAGE LIMITS

Defendants respectfully move this Court for an order for leave to file the attached closing merits brief (reply in support of their cross-motion for summary judgment) that is in excess of the standard page limit set forth in this Court's Local Rules. Defendants' proposed closing merits brief is 55 pages, excluding the cover page, table of contents, and table of authorities. In support of this motion, Defendants, through undersigned counsel, state the following:

1. The request for leave to file a closing merits brief of no greater than 55 pages is reasonable. Even with Defendants' requested page extension, the total number of pages in Plaintiffs' merits briefing significantly exceeds the number of pages in Defendants in their merits briefing. Taken together, Plaintiffs' opening merits briefs totaled 97 pages, and their closing merits briefs totaled 85 pages, for a grand total of 182 pages of merits briefing. *See* ECF Nos. 141, 145, 166, 191-93. By contrast, Defendants' opening merits brief was 72 pages, ECF No. 181, and their closing brief will be no greater than 55 pages, with the requested page extension, for a total of 127 pages.

2. Defendants are responding not only to three closing merits briefs filed by the Original Plaintiffs, Intervenor-Plaintiff BlackHawk Manufacturing Group, and Intervenor-Plaintiffs Defense

Distributed and Second Amendment Foundation, but also to a notice of supplemental authority filed by the Original Plaintiffs. These four filings total 90 pages in length. The Original Plaintiffs—the only party that does not consent in full to this motion—have notified Defendants that they would not object to Defendants' filing of a separate response to their notice of supplemental authority, which Defendants intend to forgo in favor of a single, consolidated response, for ease of reference by the Court, if this page limit extension motion is granted.

3. Plaintiffs' summary judgment briefs include arguments that the Rule challenged in this case is inconsistent with the Administrative Procedure Act, and also with the First, Second, and Fifth Amendments, together with other constitutional provisions. The requested page extension is necessary for Defendants to respond adequately to these arguments, and in order to aid the Court's determination as to the ultimate disposition of this case.

4. Defendants' closing merits brief also requires additional pages because it includes discussion of jurisdictional issues, merits issues, and the scope of any relief to be awarded in this case.

5. Defendants have not sought any extension of the page limits previously in conjunction with their summary judgment briefing.

6. Counsel for Defendants has conferred with counsel for all plaintiffs regarding this motion. Plaintiffs BlackHawk Manufacturing Group Inc.; Defense Distributed; and Second Amendment Foundation do not oppose this motion. Plaintiffs Jennifer VanDerStok; Michael G. Andren; Tactical Machining, LLC; and Firearms Policy Coalition, Inc. have informed Defendants that they do not oppose the filing of a closing merits brief by Defendants not exceeding 50 pages in length, but oppose the filing of a closing merits brief not exceeding 55 pages in length.

Accordingly, Defendants respectfully request that their motion for leave to exceed page limits be granted.

DATED: April 6, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS
Director, Federal Programs Branch

LESLEY FARBY
Assistant Director, Federal Programs Branch

/s/ Daniel Riess
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CERTIFICATE OF CONFERENCE

I certify that I have conferred with counsel for all plaintiffs. Plaintiffs BlackHawk Manufacturing Group Inc.; Defense Distributed; and Second Amendment Foundation do not oppose this motion. Plaintiffs Jennifer VanDerStok; Michael G. Andren; Tactical Machining, LLC; and Firearms Policy Coalition, Inc. do not oppose the filing of a closing merits brief by Defendants not exceeding 50 pages, but oppose the filing of a closing merits brief not exceeding 55 pages.

/s/ Daniel Riess

CERTIFICATE OF SERVICE

On April 6, 2023, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Daniel Riess